

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

ALAN EDER,
Plaintiff,

2022 OCT 31 P 3:22

v.

Case No.

22-C-1286

NURSE NICOLE, HSM BURTON,
NURSE RANDY, NURSE JOHN/JANE DOE.

COMPLAINT

The Plaintiff, Alan Eder (Eder), pro se, brings this action pursuant to U.S.C. § 1983, and states as follows:

PARTIES

1. Plaintiff, Alan Eder, is an adult citizen and resident of the State of Wisconsin and at all times relevant to this action was an inmate in the Wisconsin Department of Corrections (WDOC) and housed at Kettle Moraine Correctional Institution (KMCI), P.O. Box 282, Plymouth, WI 53073.
2. Defendant, Nurse Nicole, is an adult citizen of the State of Wisconsin, and at all times relevant to this action was working as a nurse at KMCI, W9071 Forest Dr., Plymouth, WI 53073.
3. Defendant, HSM BURTON, is an adult citizen of the State of Wisconsin, and at all times relevant to this action was working at KMCI as the Health Service Manager.
4. Defendant, Nurse John/Jane Doe, is an adult resident of the State of Wisconsin and at all times relevant to this action was working at KMCI as a nurse and/or provider.

STATEMENT OF CLAIM

5. On June 12th, 2022 Mr. Eder injured his ankle while playing basketball.
6. Mr. Eder went to the Health Services Unit (HSU) where he was seen by defendant, Nurse Nicole.
7. When asked, Mr. Eder told Nurse Nicole that he was in a lot of pain.
8. Nurse Nicole showed Mr. Eder pictures on her computer of sprained ankles, and declared to Mr. Eder that he had simply sprained his ankle.
9. Mr. Eder requested an X-ray but was told by Nurse Nicole that it was not necessary and that Mr. Eder would be seeing a provider.
10. Nurse Nicole gave Mr. Eder 200mg Ibuprophen for the pain; a pair of crutches; and a temporary lower bunk / lower tier restriction.
11. On June 13, 2022 Mr. Eder had a follow up appointment with Nurse Randy. He informed her the pain pills were not helping and asked for something stronger and for an X-ray. Nurse Randy said he would be seeing a provider in the near future.
12. On June 16, 2022 Mr. Eder's lower tier restriction was removed and he was moved back on the upper tier.
13. Also on June 16, 2022 Mr. Eder again informed HSU that the ibuprophen was not helping and asked for something stronger. When his request was refused he again asked for an X-ray.
14. Mr. Eder filled out a pink and white form and was given more over the counter ibuprophen and was again told he would see a provider for prescription strength.
15. On July 21, 2022 Mr. Eder was called to HSU for an annual health maintenance and told the RN of his continued pain in his ankle. The provider was consulted for an X-ray order and the X-ray tech who was on-site took X-rays.

16. On July 21, 2022 - 39 days after his initial complaint - Mr. Eder was informed that he had an acute distal fibula fracture and given a walking boot. He was told he would see an outside provider.
17. As of July 21, 2022 Mr. Eder still had not been seen by a provider.
18. On July 26, 2022 the Inmate Complaint Examiner (ICE) acknowledged Mr. Eder's grievance that he had not received an x-ray in a timely manner.
19. On July 28, 2022 the ICE dismissed Mr. Eder's complaint; but when it went to the Reviewing Authority on August 4, 2022 the Reviewing Authority affirmed Mr. Eder's grievance stating: Patient still unable to bear weight on next day visit should have been referred to provider for x-ray.
20. On August 22, 2022 the Corrections Complaint Examiner (CCE) affirmed Mr. Eder's appeal, stating: The BHS Nursing Coordinator affirmed the complaint noting that patient should have been referred for an x-ray the following day after the injury.
21. On August 31, 2022 the Office of Secretary also affirmed the complaint.
22. On August 10, 2022 Mr. Eder wrote HSO stating: "I was told on July 21st I had to see an outside doctor. It's August 10th and I haven't heard anything. Also when it is scheduled can the apt not be made on a Wednesday, I have school that day and cannot miss it."
23. HSO responded: You have an order in but no appointment made yet. I will let scheduler know to avoid Wednesdays.
24. On August 16, 2022 the ICE acknowledged Mr. Eder's grievance about the delay in scheduling his appointment with an outside doctor.
25. On August 18, 2022 the ICE dismissed Mr. Eder's complaint; but on August 29, 2022 the Reviewing Authority affirmed Mr. Eder's grievance stating: Patient's ortho referral should have been scheduled ~~more~~ more timely.

26. Upon information and belief Nurse Nicole was deliberately indifferent when she failed to properly assess Mr. Eder and contacting a provider to order x-rays.
27. Upon information and belief Nurse Randy failed to get an order for x-rays and a stronger pain medication when she saw Mr. Eder the next day.
28. Upon information and belief HSM Burton failed to order x-rays or see that the provider ordered x-rays and provide Mr. Eder with stronger pain medication.
29. Upon information and belief John/Jane Doe failed to schedule ortho appointment in a timely manner.
30. Upon information and belief John/Jane Doe provider failed to see Mr. Eder although Mr. Eder was repeatedly told he would see the provider.

CONSTITUTIONAL CLAIMS

Incorporating paragraphs 5-30 the Defendants showed deliberate indifference when they failed to timely provide Mr. Eder x-rays thereby forcing him to endure 39 days of extreme pain before realizing he was suffering from a fractured ankle.

Incorporating paragraphs 5-30 the Defendants showed deliberate indifference for failing to prescribe him stronger pain medication when he informed them the 200mg Ibuprofen was not working.

Incorporating paragraphs 5-30 the Defendants were deliberately indifferent to Mr. Eder's care when they did not schedule him an appointment with an outside doctor after realizing his ankle was fractured - in a timely manner.

Incorporating paragraphs 5-30 Defendant John/Jane Doe provider was deliberately indifferent when he/she refused to see Mr. Eder for over 39 days.

REQUESTED RELIEF

1. Issue an award of compensatory damages upon each defendant in the amount of Fifty Thousand Dollars (\$50,000).
2. Issue an award of punitive damages in the amount of ONE HUNDRED THOUSAND DOLLARS (\$100,000) jointly and severally.
3. Presumed Damages
4. Any other relief the court deems fair and equitable
5. Plaintiff demands a trial by jury on all matters triable.

CONCLUSION

WHEREFORE, the Plaintiff respectfully pray this honorable court grants the requested relief sought herein.

I, Alan Eder, declare under the penalty of perjury that all of the statements made herein are true and correct to the best of my personal knowledge.

Dated this _____ day of _____, 2022.

Respectfully Submitted

Alan Eder #541528

KMCI

P.O. Box 282

Plymouth, WI 53073